



ILLINOIS COMMERCE COMMISSION

August 17, 2005

The Department of Transportation of the State of Illinois, for and in behalf of
the People of the State of Illinois,
Petitioner,

vs.

BNSF Railway Company, f/k/a Burlington Northern Santa Fe Railway
Company,
Respondent,

Petition for approval of the taking or damaging of certain property in
McDonough County, Illinois by exercising the right of eminent domain. Parcel
No. 409U226TE.

Mr. Stanley L. Morris
Quinn, Johnston, Henderson
& Pretorius, Chartered
205 South Fifth Street, Suite 900
Springfield, IL 62701

Dear Mr. Morris:

Receipt is acknowledged of the original and three (3) copies of the Petition filed August 15, 2005
in the above matter.

**All future correspondence/pleadings should be filed with an original and two (2) copies
and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce
Commission, 527 East Capitol Avenue, Springfield, IL 62701 or you may file the original
electronically through E-docket if you have an account. To apply for an account, please log on to
www.icc.state.il.us and apply for an E-docket account.**

Processing and Information Section

KI

Cc: Mr. Victor A. Modeer, IDOT
Ms. Ellen Schanzle-Haskins, IDOT
Mr. Michael L. Sazdanoff, attorney BNSF
Mr. W. Douglas Werner, BNSF
Mr. Mark Leemon, BNSF
Mr. Joshua K. Richardson, McDonough County

ORIGINAL

SLM:pm 102 275 143

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION)
OF THE STATE OF ILLINOIS, for and in)
behalf of the People of the State of Illinois,)

Petitioner,)

vs.)

BNSF RAILWAY COMPANY, f/k/a)
BURLINGTON NORTHERN SANTA FE)
RAILWAY COMPANY,)

Respondent.)

No.

T05-0045
ILLINOIS COMMERCE
COMMISSION
2005 AUG 15 P 3:27
TRANSPORTATION DIV

(Parcel 409U226TE)

PETITION FOR APPROVAL TO TAKE PROPERTY

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L. MORRIS, Special Assistant Attorney General, and for its Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FAP Route 315 (Ill. Route 336), a State highway under the control and jurisdiction of Petitioner, in McDonough County, Illinois, under and by virtue of the Illinois Highway Code (605 ILCS 5/2-101 through 5/2-220 and 5/4-101 through 5/4-511). The lands and premises hereinafter described and legally described as set out in Exhibit "A" attached hereto and incorporated by this reference, are required for Petitioner's construction of non-Freeway FAP Route 315, Section 55-2, McDonough County, Illinois (hereafter the "Project").

DOCKETED

AUG 17 2005

2. Respondent, BNSF RAILWAY COMPANY, f/k/a BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY ("BNSF"), is a rail carrier as defined in the Illinois Commercial Transportation Law (625 ILCS 5/18c-7101 et seq.), is engaged as a common carrier by railroad within Illinois and is subject to the jurisdiction of the Illinois Commerce Commission.

3. The land, rights, and other property hereinafter described are private property and the Respondent appears to own, have an interest in, or claim to have some interest therein.

4. The Project is a public work, is for public use and constitutes a public purpose, in McDonough County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a temporary easement in Parcel No. 409U226TE, more particularly described in Exhibit "A attached hereto, for the lesser of three years from the date Petitioner takes possession of said property or until the completion of construction. Said parcel is located approximately 1-3/4 miles west of Macomb, Illinois, between Gold Hills Road and Township Road 226.

5. The compensation to be paid by the Petitioner to the Respondent for this parcel or the interest therein or the form of conveyance cannot be agreed upon between the Petitioner and the Respondent and the Petitioner, therefore, is authorized, subject to the initial approval of the Illinois Commerce Commission, to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the Eminent Domain Laws of Illinois.

WHEREFORE, Petitioner prays the Illinois Commerce Commission enter an Order authorizing Petitioner to proceed with an action in eminent domain to acquire from

Respondent, BNSF, a temporary easement in Parcel No. 409U226TE more particularly described in attached Exhibit "A", for the lesser of three years from the date Petitioner takes possession of said property or until completion of construction, in accordance with Article VII (735 ILCS 5/7-101 through 5/7-129) of the Illinois Code of Civil Procedure.

THE DEPARTMENT OF TRANSPORTATION,
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By: 


Stanley L. Morris

Special Assistant Attorney General

Stanley L. Morris
Special Assistant Attorney General
205 South Fifth Street, Suite 900
Springfield, IL 62701
Telephone: (217) 753-1133

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Petition by me subscribed, have knowledge of the contents thereof and that on information and belief said contents are true in substance and in fact.



STANLEY L. MORRIS
Special Assistant Attorney General

Subscribed and sworn to before me, a Notary Public, this 15th day of August, 2005.





Notary Public

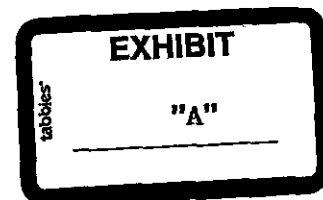
PROOF OF SERVICE

The undersigned certifies that on August 15th, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

Burlington Northern & Santa Fe Railway Company
c/o Stanbach Company
Attn: Yvonne Worsham
3017 Lou Menk Drive, Suite 100
Ft. Worth, TX 76131

BNSF Railway Company,
f/k/a Burlington Northern Santa Fe Railway Company
c/o Michael Szdanoff, Registered Agent
Kenneth J. Wysoglad & Associates
118 South Clinton Street, Suite 700
Chicago, IL 60661





TRACT ONE

A part of the Southeast Quarter of Section 4, Township 5 North, Range 3 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Beginning at a point on the southerly right-of-way line of Burlington Northern & Santa Fe Railroad, said point being 601.68 feet radially distance westerly from the proposed centerline of FAP Route 315 at station 551+90.07; thence southwesterly along said southerly right-of-way line, 1,857.00 feet to a point being 2,347.56 feet normally distance westerly from said centerline station 545+29.06; thence northwesterly to the northerly right-of-way line of said Railroad, said point being 2,382.11 feet normally distance westerly from said centerline 546+22.81; thence northeasterly along said northerly right-of-way line, 1,857.00 feet to a point being 632.68 feet radially distance westerly from said centerline station 552+93.49; thence 100.00 feet to the Point of Beginning, containing 185,700 square feet, or 4.263 acres, more or less.

TRACT TWO

A part of the Southeast Quarter of Section 4, Township 5 North, Range 3 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Beginning at a point on the northerly right-of-way line of Burlington Northern & Santa Fe Railroad, said point being 467.70 feet radially distance easterly from the proposed centerline of FAP Route 315 at station 556+21.66; thence northeasterly along said northerly right-of-way line, 1,687.00 feet to a point being 2,105.70 feet radially distance easterly from said centerline station 559+68.64; thence southeasterly to the southerly right-of-way line of said Railroad, said point being 2,128.02 feet radially distance easterly from said centerline 558+92.30; thence southwesterly along said southerly right-of-way line, 1,687.00 feet to a point being 494.50 feet radially distance easterly from said centerline station 555+31.02; thence northerly 100.00 feet to the Point of Beginning, containing 168,700 square feet, or 3.873 acres, more or less.

The said Tracts One and Two contain 354,400 square feet, more or less, or 8.136 acres, more or less.

The said Real Estate being also shown by the plat hereto attached and made a part hereof.

409U226TER1